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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/754,547	01/03/2001	Alain T. Rappaport	4239P003	3731
21186	7590	07/18/2005	EXAMINER	
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A. P.O. BOX 2938 MINNEAPOLIS, MN 55402-0938			PORTER, RACHEL L	
		ART UNIT		PAPER NUMBER
		3626		
DATE MAILED: 07/18/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/754,547	RAPPAPORT, ALAIN T.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Rachel L. Porter	3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 25 April 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-7, 10-20 and 38-49 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-7, 10-20 and 38-49 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)                    4) Interview Summary (PTO-413)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)                    Paper No(s)/Mail Date. \_\_\_\_\_.  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date 4/25/05.                    5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Notice to Applicant***

1. This communication is in response to the Applicant's response filed 4/25/05.  
Claims 1-7,10-20, and 38-49 are pending.

### ***Information Disclosure Statement***

2. The Information Disclosure Statement filed 4/25/05 has been entered and considered by the Examiner.

### ***Claim Rejections - 35 USC § 101***

3. The rejection of claims 1-7,10-15, and 20 under 35 U.S.C. 101, for the reasons set forth in the previous Office Action are hereby withdrawn due to the amendment filed 4/25/05.

### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:  

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
5. Claims 1-7,10-20, and 38-49 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Exemplary claim 1 has been amended to recite " wherein generating the set of queries comprises selecting a set of *preexisting* queries..." It is unclear to the Examiner

where or how the recited “preexisting queries” are created and whether the creation of these queries lies within the scope of the Applicant’s invention, as applicant provides no steps reciting how these queries are formed. Moreover, it is unclear what type of information is included in the “preexisting queries.”

A similar analysis may be applied to claims 38,42,44 and 46, which also include the term “preexisting queries.”

Claims 2-7,10-20, 39-45, and 47-49 inherit the deficiencies of their respective independent claims, and are therefore also rejected.

a. It is noted that in the Applicant’s response, on page 11, the Applicant suggests that the preexisting queries include links to web addresses. Thus, for the purpose of applying art, the Examiner will interpret the “preexisting queries” to include links to web addresses and apply art accordingly.

#### ***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1,6-7,10-15,17-20, and 38-47 are rejected under 35 U.S.C. 102(e) as being anticipated by Bessette (US Patent No. 6,263,330).

In reference to claim 1, Bessette teaches a data searching method comprising:

- receiving information about a medical procedure performed for patient based upon a request from a healthcare provider (Figure 4, 9)
- querying to retrieve a list of data sources data sources from at least one database based on received information (about the medical procedure) (Figure 9; col. 3, line 41-col. 4, line 52; col. 11, lines 11-67; col. 15, lines 25-col. 16, line 29)
- generating at least one document containing the list of data sources retrieved from the database, (col. 13, lines 1-43) wherein performing the query function comprises:
  - o generating a set of queries containing query criteria based on the received information about medical procedure; and (Figures 2,4,6,8-9; col. 12, lines 1-67; col. 13, lines 1-43; col. 14, line 40-col. 15, line 3)
  - o executing the set of queries to retrieve from the database the list of data sources matching the query criteria, wherein generating the set of queries comprises selecting a set of preexisting queries (i.e. hotlinks/pointers) that correspond to the received information about the medical procedure. (Figures 2,4,6,8-9; col. 11, lines 11-56; col. 13, lines 1-43; col. 14, line 40-col. 15, line 3)

Claim 1 further recites that the claimed method occurs at a server. Insofar as the disclosed by Bessette occurs over LAN's and the Internet (see col. 6, lines 17-33), it is respectfully submitted that the recited steps require the use of a server.

In reference to claims 6-7, Bessette teaches a data retrieval method wherein the data source is referenced by an address and this address comprises a URL (i.e. a web address) (column 13, lines 1-38)

In reference to claims 10-15, Bessette teaches a method wherein generating the set of queries comprises constructing a set of queries based on the information received about the medical procedure. (col. 13, lines 1-38; col. 15, lines 52-67) Bessette further discloses determining at least one medical procedure identifier from information received. (col. 15, lines 4-24; Figure 6C; Figure 10 e.g. links to antecedents/surgical history, previous procedures)

In reference to claims 17-19, Bessette teaches a method that operates via the Internet (col. 6, line 64-col 7, line 21) and wherein a healthcare provider (i.e. the healthcare facility) can provide feedback on information contained in the retrieved documents (col. 14, lines 39-col. 15, line 3).

In reference to claim 20, Bessette teaches a method wherein the query criteria include contextual information applicable to the information received. (col. 7, line 52-col. 8, line 4; col. 11, lines 25-67; col. 15, lines 4-67)

In reference to claim 38, Bessette teaches a system comprising:

- a first database to store multiple lists of content links, each list corresponding to a specific medical procedure code; and (col. 8, line 52-col. 9, line 36; col. 13, lines 39-col. 14, line 21; col. 15, lines 4-24; col. 16, lines 5-29; Figures 3,5)

- a first server to receive information about medical procedure from at least one source, said information about medical procedure including at least one procedure code, the first server to retrieve from the first database at least one list of content links based upon the at least one code received, (col. 8, line 52-col. 9, line 36; col. 13, lines 39-col. 14, line 21; col. 15, lines 4-24; col. 16, lines 5-29), the first server to generate at least one document containing the at least one list of content links retrieved from the first database, wherein the first server is to select a set of preexisting queries (i.e. hotlinks/pointers) that correspond to information about the medical procedure to retrieve from the first database the at least one list of content links. (col. 15, line 52-col. 16, line 29; Figures 3,5)

In reference to claim 39, Bessette teaches a system wherein the at least one document generated is stored in a second database. (col. 13, lines 4-38; col. 15, lines 4-46)

In reference to claim 40, Bessette teaches a system that operates via the Internet (col. 6, line 64-col 7, line 21) and wherein a healthcare provider (i.e. the healthcare facility) can provide feedback on information contained in the retrieved documents (col. 14, lines 39-col. 15, line 3).

In reference to claim 41, Bessette teaches a system wherein the computer network is the Internet. (col. 6, line 64-col. 7, line 9)

In reference to claim 42, Bessette teaches a system wherein the first server includes a machine-readable medium comprising instructions which, when executed by a machine, cause the machine to perform operations, the instructions to comprise:

Art Unit: 3626

- logic to receive the information about the medical procedure from the at least one source; (Figures 6; col. 4, lines 18-34, col. 7, lines 22-51; col. 14, line 40-col. 15, line 3)
- logic to generate a set of queries based upon the at least one definition that corresponds to the at least one procedure code received; and (col. 13, lines 23-col. 14, line 20; col. 15, lines 4-67)
- logic to execute the set of preexisting queries(i.e. hotlinks/pointers) to retrieve from a first database the at least one list of content links that corresponds to the set of preexisting queries (i.e. hotlinks/pointers). (col. 13, lines 23-col. 14, line 20; col. 15, lines 4-67; Figure 10)

In reference to claim 43, Bessette teaches a system wherein each list of content links stored is identified using a set of queries generated from at least one definition associated with a respective procedure code. (Figures 6,10; col. 13, lines 1-col. 14, line 21)

In reference to claims 44-45, see Bessette: col. 11, line 40-56; col. 13, lines 23-col. 14, line 21;col. 15, line 4-col.16, line 29.

In reference to claims 46, the present claim repeats the subject matter of claim 1, as computer readable-medium embodying instructions to perform the method recited in claim 1. Insofar as the method of claim 1 has been shown to be computer-implemented in the rejection of claim 1 above, the limitations of claim 46 are addressed by the rejection of claim 1, and incorporated herein. Claim 46 further recites that the claimed method occurs at a server. Insofar as the disclosed by Bessette occurs over LAN's and

Art Unit: 3626

the Internet (see col. 6, lines 17-33), it is respectfully submitted that the recited steps require the use of a server.

In reference to claim 47, Bessette discloses that the medical procedure information comprises at least one medical procedure code indicating the procedure performed for the patient. (col. 15, line 4-24; Figures 6A-6C: antecedents; previously performed procedures)

### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 2-5,16, and 48-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bessette in view of Evans (US Patent No. 5,924,074).

In reference to claims 2-5, Bessette teaches a medical retrieval method that incorporates the use of codes to identify relevant medical data (col. 13, lines 52-56; col. 14, lines 10-21). However, Bessette does not specifically disclose the use of ICD or CPT codes for retrieving relevant medical data using various health codes. Evans teaches a data retrieval system/method wherein receiving data in the patient's records comprises accessing procedure codes or diagnosis codes for procedures/diagnoses that the patient has undergone/received and wherein the codes are CPT or ICD codes. (column 9, lines 4-7, figure 20; column 11, lines 14-27). At the time of the Applicant's

invention, it would have been obvious to one of ordinary skill in the art to combine the teachings of Bessette with the teachings of Evans. As suggested by Evans, one would have been motivated to include this feature to provide enhanced analysis of patient data and to facilitate a treating healthcare provider's access to a wide range of critical medical data relating to his/her patients. (col. 2, lines 45-64)

In reference to claims 16, Bessette teaches different methods of querying and retrieving data regarding patient procedures based upon the user's query terms and related concepts. (col. 13, lines 1-col 14, lines 21) Bessette further discloses providing information on a medical procedure identifier for patients (Figure 6C-e.g. antecedents, previous procedures), but does not expressly disclose determining additional procedure identifiers that are equivalent to procedure identifiers provided (i.e. by the user). Evans teaches a system/method that provides equivalent procedure identifiers (e.g. procedure descriptions) for a querying healthcare provider. (column 11, lines 10-30; Figures 19-20—Allergy Skin Tests). At the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to modify the method of Bessette with the teaching of Evans to determine equivalent procedure identifiers for received procedure information (i.e. received information on procedures). As suggested by Evans, one would have been motivated to include this feature to increase accuracy in selecting information regarding diagnosis and appropriate treatments for patients. (col. 11, lines 37-60)

In reference to claim 48, Bessette teaches a medical retrieval method that incorporates the use of codes to identify relevant medical data (col. 13, lines 52-56; col.

Art Unit: 3626

14, lines 10-21) to provide information or relevant medical procedures performed on a patient. However, Bessette does not specifically disclose the use of ICD or CPT codes for retrieving relevant medical data using various health codes. Evans teaches a data retrieval system/method wherein receiving data in the patient's records comprises accessing procedure codes or diagnosis codes for procedures/diagnoses that the patient has undergone/received and wherein the codes are CPT or ICD codes. (column 9, lines 4-7, figure 20; column 11, lines 14-27). At the time of the Applicant's invention, it would have been obvious to one of ordinary in the art to combine the teachings of Bessette with the teachings of Evans. As suggested by Evans, one would have been motivated to include this feature to provide enhanced analysis of patient data and to facilitate a treating healthcare provider's access to a wide range of critical medical data relating to his/her patients. (col. 2, lines 45-64)

In reference to claim 49, Bessette teaches the machine-readable medium of claim 48 wherein performing the query function comprises:

- generating a set of queries containing query criteria based on the received information about medical procedure; and (Figures 2,4,6,8-9; col. 12, lines 1-67; col. 13, lines 1-43; col. 14, line 40-col. 15, line 3)
- executing the set of queries to retrieve from the at least one database the list of data sources matching the query criteria. (Figures 2,4,6,8-9; col. 11, lines 11-56; col. 13, lines 1-43; col. 14, line 40-col. 15, line 3)

***Response to Arguments***

10. Applicant's arguments filed 4/25/05 have been fully considered but they are not persuasive.

(A) Applicant argues that Bessette does not anticipate claim 1 because it does not disclose, "selecting a set of preexisting queries at a server."

In response, the Applicant's amendments to the claim language to include the limitation "preexisting queries" are noted by the Examiner in the prior art rejection provided in the current Office Action. However, the Applicant has failed to provide and the Examiner was unable to locate a definition for the term in the claim(s) or in the originally filed disclosure. Consequently, it is unclear to the Examiner where or how the recited "preexisting queries" are created and whether the creation of these queries lies within the scope of the Applicant's invention. Moreover, it is unclear what type of information is included in the "preexisting queries."

The Examiner notes that in the Applicant's response, on page 11, the Applicant suggests that the preexisting queries include links to web addresses. It is respectfully submitted that the URL's/web address links provided as examples by the Applicant as examples of the preexisting queries are not unlike the URL's retrieved in the Bessette references (e.g. col. 13, lines 23-col. 14, lines 9) to link medical data from various sources. Thus, the Examiner has interpreted the "preexisting queries" to include links to web addresses and applied art accordingly. As such, the Applicant's amendments fail to overcome the prior art rejection of record.

(B) The Applicant further argues that the claimed functions are not performed by a server in Bessette, but by a client.

In response, it is respectfully submitted that the method disclosed by Bessette occurs over LAN's and the Internet (see col. 6, lines 17-33) and therefore, it is respectfully submitted that the recited steps require the use of a server.

***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Reed et al (USPN 6,546,399) teaches a system and method for multimedia search strategies.
- Dang (USPN 5,835,897) teaches a system and method for searching and segmenting medical claim information.

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rachel L. Porter whose telephone number is (571) 272-6775. The examiner can normally be reached on M-F, 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (571) 272-6776. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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